IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 25775 of 2007(R)

OA.460/2003 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

MOHAMMED RIYAS,
MANAGING DIRECTOR,
ATBA CRUMB RUBBER (P) LTD.,
KARUVARAKUNDU P.O., THUVUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

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1. RECOVERY OFFICER,
DEBTS RECOVERY TRIBUNAL,
ERNAKULAM.

2. SOUTH INDIAN BANK LIMITED,REPRESENTED
BY THE GENERALMANAGER,REGIONAL OFFICE,
COLLECTORATE KOTTAYAM.

3. BRANCH MANAGER,
SOUTH INDIAN BANK,KANJIRAPPALLY.

4. CHIEF MANAGER (AUTHORIZED OFFICER)
SOUTH INDIAN BANK,REGIONAL OFFICE,
COLLECTORATE P.O., KOTTAYAM.

R2 TO R4 BY SC SRI. K. PRABHAKARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 25775 OF 2007

Dated this the 23rd day of August, 2007

JUDGMENT

The prayer is only for direction to the first respondent to withhold recovery proceedings, that is sale of petitioner's property, pursuant to recovery certificate issued by the DRT. Standing counsel appearing for the second respondent submitted that the liability is above Rs. 2.6 crores and unless the Bank is permitted to sell the petitioner's property, Bank will suffer. Counsel for the petitioner contended that petitioner has other liabilities, like sales tax, electricity dues, etc., and if the recovery officer is permitted to sell the property, property will be sold at low price leading to loss not only to the petitioner, but also to the Bank and other creditors including the Government. Obviously if property is sold by recovery officer, it is unlikely to fetch market price. Petitioner will be the right person to sell his property which can be permitted if all the creditors are settled. In order to establish petitioner's bona fides to settle liability by arranging sale of property or otherwise within a reasonable time, petitioner has given an undertaking

in Court that he will deposit Rs. 25 lakhs with the third respondent within three weeks from now, that is on or before 18.9.2007. In the circumstances, recording the undertaking of the petitioner, W.P. is disposed of directing the first respondent to withhold recovery proceedings till 30.11.2007 with direction to the petitioner to deposit Rs. 25 lakhs in terms of the above undertaking on or before 18.9.2007. If the amount is not deposited as above, first respondent will notify the property for sale immediately after default. In that case, there will be direction to the petitioner to hand over the property free of possession to the first respondent for sale of the same, failing which Bank or first respondent can move this Court for initiating contempt against the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge